



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2013-1009]

RIN 1625-AA87

Security Zones; Dignitary Arrival/Departure and United Nations Meetings, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending 33 CFR 165.164 by establishing three security zones to replace the three regulated navigation areas (RNAs) currently contained within this section. The Coast Guard is also disestablishing these three RNAs. The three security zones, just like the RNAs they replace, are meant to promote public safety and to protect dignitaries who visit the United Nations in New York, NY.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-1009]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Jeff Yunker, Waterways Management Division, Coast Guard Sector New York; telephone (718) 354-4195, e-mail Jeff.M.Yunker@uscg.mil or Lieutenant Commander Myles Greenway, Coast Guard First District Waterways Management Branch, Telephone (617) 223-8385, email Myles.J.Greenway@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port New York
DHS	Department of Homeland Security
FR	Federal Register
MOA	Memorandum of Agreement
NPRM	Notice of Proposed Rulemaking
RNA	Regulated Navigation Area
SNPRM	Supplemental Notice of Proposed Rulemaking
UN	United Nations
UNGA	United Nations General Assembly
USSS	United States Secret Service

A. Regulatory History and Information

On September 29, 2014 we published a Notice of Proposed Rulemaking (NPRM) with a request for comments entitled, "Security Zones; Dignitary Arrival/Departure and United Nations Meetings, New York, NY" in the Federal Register (79 FR 58298). We received no comments on the NPRM. We received no requests for a public meeting.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define security zones.

As mentioned above, the Coast Guard previously established three RNAs on the waters of the East River and Bronx Kill, near Wall Street Heliport, Randalls and Wards Islands, and the United Nations Building. The primary purpose of these three RNAs was to protect dignitaries, such as the President of the United States, who visit the United Nations. Although these RNAs served their intended purpose, the Coast Guard is replacing them with security zones to best communicate the federal government's security posture in these particular water areas.

C. Discussion of Comments, Changes and the Final Rule

We received no comments in response to the proposed rule and the final rule is being published without change.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This determination is based on the fact that the RNAs would simply be designated as security zones as the more appropriate means to regulate the movement of vessels or individuals in the areas. We have not made any changes to the size, boundaries, or enforcement duration of these security zones.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently

owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This determination is based on the fact that the RNAs are simply being designated as security zones as the more appropriate means to regulate the movement of vessels or individuals in the areas. We are not making any changes to the size, boundaries, or enforcement duration of the security zones.

3. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

4. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

5. Protest Activities

The Coast Guard respects the First Amendment rights of

protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INTFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the

National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves designating three RNAs as security zones. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under "ADDRESSES". We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREA

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.164 to read as follows:

§165.164 Security Zones; Dignitary Arrival/Departure and United Nations Meetings, New York, NY.

(a) Location. The following areas are security zones:

(1) Wall Street Heliport. All waters of the East River within the following boundaries: East of a line drawn between approximate position 40°42'01"N, 074°00'39"W (east of The Battery) to 40°41'36"N, 074°00'52"W (point north of Governors Island) and north of a line drawn from the point north of Governors Island to the southwest corner of Pier 7 North, Brooklyn; and south of a line drawn between 40°42'14.8"N, 074°00'20.3"W (Wall Street, Manhattan), and the northwest corner of Pier 2 North, Brooklyn (NAD 1983).

(2) Randalls and Wards Islands: All waters of the East River between the Hell Gate Rail Road Bridge (mile 8.2), and a line drawn from a point at approximate position 40°47'27.12" N, 073°54'35.14" W (Lawrence Point, Queens) to a point at approximate position 40°47'52.55" N, 073°54'35.25" W (Port Morris Stacks), and all waters of the Bronx Kill southeast of the Bronx Kill Rail Road Bridge (mile 0.6) (NAD 1983).

(3) Marine Air Terminal, LaGuardia Airport Security Zone: All waters of Bowery Bay, Queens, New York, south of a line drawn from the western end of LaGuardia Airport at approximate position 40°46'47" N, 073°53'05" W to the Rikers Island Bridge at approximate position 40°46'51" N, 073°53'21" W and east of a line

drawn between the point at the Rikers Island Bridge to a point on the shore in Queens, New York, at approximate position 40°46'36" N, 073°53'31" W (NAD 1983).

(4) United Nations Manhattan Shoreline. All waters of the East River bound by the following points: 40°44'37" N, 073°58'16.5" W (the base of East 35th Street, Manhattan), then east to 40°44'34.5" N, 073°58'10.5" W (about 180 yards offshore of Manhattan), then northeasterly to 40°45'29" N, 073°57'26.5" W (about 125 yards offshore of Manhattan at the Queensboro Bridge), then northwesterly to 40°45'31" N, 073°57'30.5" W (Manhattan shoreline at the Queensboro Bridge), then southerly along the shoreline to the starting point at 40°44'37" N, 073°58'16.5" W (NAD 1983).

(5) United Nations West Channel Closure. All waters of the East River north of a line drawn from approximate position 40°44'37" N, 073°58'16.5" W (the base of East 35th Street, Manhattan), to approximate position 40°44'31.04" N, 073°58'03.10" W (approximately 400 yards east of the Manhattan shoreline), all waters west of a line drawn from approximate position 40°44'31.04" N, 073°58'03.10" W (approximately 400 yards east of the Manhattan shoreline), to the southern tip of Roosevelt Island at approximate position 40°44'57.96" N, 073°57'41.57" W, then along the western shoreline of Roosevelt Island to the Queensboro Bridge, and all waters south of the Queensboro Bridge (NAD 1983).

(6) United Nations Full River Closure. All waters of the East River north of a line drawn from approximate position 40°44'37" N, 073°58'16.5" W (the base of East 35th Street, Manhattan), to approximate position 40°44'23" N, 073°57'44.5" W (Hunters Point, Long Island City), and south of the Queensboro Bridge (NAD 1983).

(b) Definitions.

As used in this section--

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on the COTP's behalf. A designated representative may be on a Coast Guard vessel, or onboard a federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

Dignitary means the President or Vice President of the United States, or visiting heads of foreign states or governments.

(c) Regulations. In accordance with the general regulations in 33 CFR 165.33, no person or vessel may enter or move within a security zone created by this section while that security zone is being enforced unless granted permission to do so by the Coast Guard's First District Commander, the COTP, or a designated representative. Vessel operators and persons given permission to enter or operate in a security zone must comply with all

directions given to them by the COTP, or a designated representative. Upon being hailed by a U.S. Coast Guard or other duly authorized law enforcement vessel (e.g. New York City police) by siren, radio, flashing lights, or other means, the operator of a vessel must proceed as directed, and follow any instructions to anchor or moor up to a waterfront facility.

(d) Enforcement periods. The security zone described in paragraph (a)(4) of this section is subject to enforcement at all times. All other security zones established by this section will only be enforced when necessary to protect dignitaries as determined by the COTP.

(e) Notification. Because the security zone described in paragraph (a)(4) of this section is subject to enforcement at all times, the Coast Guard will not necessarily take any action to further notify the public about the enforcement of that zone. As for the enforcement periods for the other security zones contained herein, the Coast Guard will rely on the methods described in 33 CFR 165.7 to notify the public of the time and duration of any enforcement period. The COTP may also notify the public about enforcement of these security zones via <http://homeport.uscg.mil/newyork>.

(f) Contact information. Vessel operators desiring to enter or operate within a security zone shall telephone the COTP at 718-354-4356 or a designated representative via VHF channel 16 to obtain permission to do so.

Dated: November 15, 2014

L. L. Fagan,
Rear Admiral, U.S. Coast Guard
Commander, First Coast Guard District.

[FR Doc. 2014-30455 Filed 12/29/2014 at 8:45 am; Publication
Date: 12/30/2014]